

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**JENNIE COURTNEY,
AS ADMINISTRATRIX OF THE
ESTATE OF DENNIS COURTNEY,
DECEASED,**

PLAINTIFF,

v.

ANTHONY CLARK, et al.

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**CIVIL ACTION NO.:
2:06-CV-00600-DRB
(Removed from the Circuit Court of
Covington County, AL; CV-06-110)**

**DEFENDANT BLACK CREEK INTEGRATED SYSTEMS CORP.¶S
MOTION TO EXTEND EXPERT WITNESS DEADLINE**

COMES NOW the Defendant, Black Creek Integrated Systems, Corp. ("Black Creek") and files this motion to extend its expert witness deadlines and as grounds therefore states as follows:

1. On August 9, 2006, the parties conducted a telephone Rule 26(f) meeting of the parties to discuss deadlines and discovery for this case and submitted their report of the parties planning meeting (Doc. 18). On August 21, 2006, this Court entered its Uniform Scheduling Order, which among other deadlines, instructs the Plaintiff to identify experts and provide Rule 26 reports by March 1, 2007 and the Defendants by April 2, 2007 (Doc. 21; Section 8). The Uniform Scheduling Order also provides that "[a]ll parties are expected to comply with each and every Provision of this order in a timely manner, and extensions will be granted in only extraordinary and unforeseeable circumstances." (Doc. 21; ¶ 1).

2. The Plaintiff failed to disclose her expert witnesses by March 1, 2007, the deadline set forth in the Uniform Scheduling Order of this Court. The Plaintiff then filed an untimely motion to extend her expert deadline (Doc. 78) on March 2, 2007.

3. The Uniform Scheduling Order requires that this Defendant by April 2, 2007 "disclose the identity of ANY person who may be used at trial to present evidence under Rules 702, 703 or 705 of the Federal Rules of Evidence, and provide the reports of retained experts or witnesses whose duties as an employee of the party regularly involved in giving expert testimony, required by Rule 26(a)(2) of the Federal Rules of Civil Procedure."

4. The Plaintiff has offered no criticisms nor identified any expert to offer opinion testimony regarding Black Creek. The complaints contain no specific statements as to Black Creek's alleged liability and there has been no testimony or expert opinions offered for which rebuttal experts may be appropriate. Therefore, this Defendant requests this Court, should it

grant leave to the Plaintiff to later name an expert witness as to this Defendant, to allow this Defendant additional time to offer rebuttal experts as to any criticisms, if such is allowed.

WHEREFORE, PREMISES CONSIDERED, this Defendant requests this Court grant Black Creek an extension of time within which to name its expert, as required by Rule 26(a)(2), *Federal Rules of Civil Procedure*, for a additional period of thirty days from the date the Plaintiff tenders her expert for deposition, if Plaintiff is allowed to tender expert testimony in this cause.

Respectfully submitted,

s/ Bert P. Taylor

Bert P. Taylor (TAY004)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the above pleading on all counsel and/or parties listed below by placing a copy in the United States Mail and placing proper postage upon same:

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I hereby certify service on this the 30th day of March, 2007.

s/ Bert P. Taylor

Of Counsel